

**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. AC 2009-10

**GORDON ALAN McKINNEY**  
1251-H Beach Blvd.  
La Habra, CA 90631

Certified Public Accountant  
Certificate Number 28037

Respondent.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy as its Decision in this matter.

This Decision shall become effective on June 25, 2009.

It is so ORDERED May 26, 2009.

  
\_\_\_\_\_  
FOR THE CALIFORNIA BOARD OF ACCOUNTANCY

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
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9 Attorneys for Complainant

10 **BEFORE THE**  
11 **CALIFORNIA BOARD OF ACCOUNTANCY**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. AC-2009-10

14 **GORDON ALAN McKINNEY**  
1251-H Beach Blvd.  
15 La Habra, CA 90631

**STIPULATED SETTLEMENT  
AND DISCIPLINARY ORDER**

16 Certified Public Accountant  
Certificate Number 28037

17 Respondent.

18  
19 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of  
20 Accountancy. She brought this action solely in her official capacity and is represented in this  
21 matter by Edmund G. Brown Jr., Attorney General of the State of California, by G. Michael  
22 German, Deputy Attorney General.

23 2. Respondent Gordon Alan McKinney is representing himself in this matter.

24 **JURISDICTION**

25 3. On June 1, 1979, the Board issued Certified Public Accountant (CPA) Certificate  
26 Number 28037 to Respondent (Respondent). The CPA certificate expired and was invalid from  
27 September 1, 1989, through December 19, 1989; from September 1, 1991, through September  
28 27, 1991; and from September 1, 1993, through September 21, 1993, by reason of Respondent's

1 failure to timely pay renewal fees and comply with continuing education requirements. The  
2 CPA Certificate was in full force and effect at all times relevant to the charges brought herein  
3 and is renewed through August 31, 2009.

4 4. Accusation No. AC 2009-10 was filed before the Board on March 5, 2009, and is  
5 currently pending against Respondent. The Accusation and all other statutorily required  
6 documents were properly served on Respondent on March 18, 2009, and Respondent timely filed  
7 his Notice of Defense thereto. A copy of the Accusation is attached as Exhibit A and  
8 incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read and fully understands the charges and allegations  
11 in the Accusation. Respondent has also carefully read and fully understands the effects of this  
12 Stipulated Settlement and Disciplinary Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel;  
15 the right to confront and cross-examine the witnesses against him; the right to present evidence  
16 and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance  
17 of witnesses and the production of documents; the right to reconsideration and court review of an  
18 adverse decision; and all other rights accorded by the California Administrative Procedure Act  
19 and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each  
21 and every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation contained in  
24 the Accusation.

25 9. Respondent agrees that his License is subject to discipline and he agrees to be  
26 bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

27 10. Respondent understands that by signing this stipulation he enables the Board to  
28 issue an order revoking his license without further process.

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1 conditions:

2 1. Certified Public Accountant License No. CPA 28037 issued to Respondent is  
3 suspended for one hundred and eighty days, beginning thirty days after the effective date of this  
4 Order. During the period of suspension, Respondent shall engage in no activities for which  
5 certification as a Certified Public Accountant or Public Accountant is required as described in  
6 Business and Professions Code, Division 3, Chapter 1, Section 5051.

7 2. Respondent shall obey all federal, California, other states' and local laws,  
8 including those rules relating to the practice of public accountancy in California.

9 3. Respondent shall reimburse the Board its costs of investigation and enforcement  
10 in the amount of \$7,462.75 within thirty days of the effective date of the Decision and Order, by  
11 making payment in certified funds to the California Board of Accountancy, 2000 Evergreen  
12 Street, Suite 250, Sacramento, CA 95815-3832.

13 4. Respondent shall submit, within 10 days of completion of the quarter, written  
14 reports to the Board on a form obtained from the Board. The respondent shall submit, under  
15 penalty of perjury, such other written reports, declarations, and verification of actions as are  
16 required. These declarations shall contain statements relative to respondent's compliance with  
17 all the terms and conditions of probation. Respondent shall immediately execute all release of  
18 information forms as may be required by the Board or its representatives.

19 5. Respondent shall, during the period of probation, appear in person at interviews/  
20 meetings as directed by the Board or its designated representatives, provided such notification is  
21 accomplished in a timely manner.

22 6. Respondent shall fully comply with the terms and conditions of the probation  
23 imposed by the Board and shall cooperate fully with representatives of the California Board of  
24 Accountancy in its monitoring and investigation of the respondent's compliance with probation  
25 terms and conditions.

26 7. Respondent shall be subject to, and shall permit, a practice investigation of the  
27 respondent's professional practice. Such a practice investigation shall be conducted by  
28 representatives of the Board, provided notification of such review is accomplished in a timely

1 manner.

2 8. Respondent shall comply with all final orders resulting from citations issued by  
3 the California Board of Accountancy.

4 9. In the event respondent should leave California to reside or practice outside this  
5 state, respondent must notify the Board in writing of the dates of departure and return. Periods  
6 of non-California residency or practice outside the state shall not apply to reduction of the  
7 probationary period, or of any suspension. No obligation imposed herein, including  
8 requirements to file written reports, reimburse the Board costs, and make restitution to  
9 consumers, shall be suspended or otherwise affected by such periods of out-of-state residency or  
10 practice except at the written direction of the Board.

11 10. If Respondent violates probation in any respect, the Board, after giving  
12 Respondent notice and an opportunity to be heard, may revoke probation and carry out the  
13 disciplinary order that was stayed. If an accusation or a petition to revoke probation is filed  
14 against respondent during probation, the Board shall have continuing jurisdiction until the matter  
15 is final, and the period of probation shall be extended until the matter is final.

16 11. Respondent shall take and pass with a score of 90 percent or better a Board-  
17 approved ethics examination within 180 days of the effective date of this Order. If Respondent  
18 fails to pass said examination within the time period provided or within two attempts, respondent  
19 shall so notify the Board and shall cease practice until Respondent takes and successfully passes  
20 said exam, has submitted proof of same to the Board, and has been notified by the Board that he  
21 may resume practice. Failure to pass the required examination no later than 100 days prior to the  
22 termination of probation shall constitute a violation of probation.

23 Notwithstanding any other provision of this probation, failure to take and pass this  
24 examination within five years of the effective date of this order constitutes a separate cause for  
25 discipline of Respondent's license.

26 12. Respondent shall complete thirty-six hours of professional education courses as  
27 specified by the Board or its designee at the time of respondent's first probation appearance. The  
28 professional education courses shall be completed within a period of time designated and

1 specified in writing by the Board or its designee, which time frame shall be incorporated as a  
2 condition of this probation. This shall be in addition to continuing education requirements for  
3 relicensing. Failure to satisfactorily complete the required courses as scheduled or failure to  
4 complete same no later than 100 days prior to the termination of probation shall constitute a  
5 violation of probation.

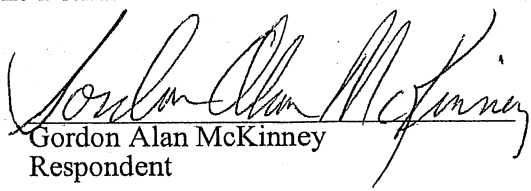
6 13. Respondent shall at all times maintain an active license status with the Board,  
7 including during any period of suspension. If the license is expired at the time the Board's  
8 decision becomes effective, the license must be renewed within 30 days of the effective date of  
9 the decision.

10 14. Upon successful completion of probation, Respondent's license will be fully  
11 restored.

12 ACCEPTANCE

13 I have carefully read the above Stipulated Settlement and Disciplinary Order. I  
14 understand the stipulation and the effect it will have on my Certificate. I enter into this  
15 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
16 to be bound by the Decision and Order of the Board.

17  
18 DATED: 4/9/09

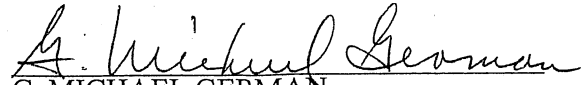
  
Gordon Alan McKinney  
Respondent

19  
20  
21 ENDORSEMENT

22 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
23 submitted for consideration by the California Board of Accountancy.

24 DATED: April 14, 2009

EDMUND G. BROWN JR., Attorney General  
of the State of California

25  
26   
27 G. MICHAEL GERMAN  
28 Deputy Attorney General  
Attorneys for Complainant

**Exhibit A**

**Accusation in Case No. AC-2009-10**



1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 G. MICHAEL GERMAN, State Bar No. 103312  
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9 Attorneys for Complainant

10 **BEFORE THE**  
11 **CALIFORNIA BOARD OF ACCOUNTANCY**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. AC-2009-10

15 **GORDON ALAN McKINNEY**  
16 1251-H Beach Blvd.  
La Habra, CA 90631

**A C C U S A T I O N**

17 Certified Public Accountant  
Certificate Number 28037

Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity  
22 as the Executive Officer of the California Board of Accountancy (Board), Department of  
23 Consumer Affairs.

24 2. On June 1, 1979, the Board issued Certified Public Accountant (CPA) Certificate  
25 Number 28037 to Respondent (Respondent). The CPA certificate expired and was invalid from  
26 September 1, 1989, through December 19, 1989; from September 1, 1991, through September  
27 27, 1991; and from September 1, 1993, through September 21, 1993, by reason of Respondent's  
28 failure to timely pay renewal fees and comply with continuing education requirements. The

1 CPA Certificate was in full force and effect at all times relevant to the charges brought herein  
2 and is renewed through August 31, 2009.

### 3 JURISDICTION

4 3. This Accusation is brought before the Board under the authority of the following  
5 laws. All section references are to the Business and Professions Code unless otherwise  
6 indicated.

7 4. Section 5100 of the Code states, in pertinent part:

8 After notice and hearing the board may revoke, suspend, or refuse to  
9 renew any permit or certificate granted under Article 4 (commencing with Section  
10 5070) and Article 5 (commencing with Section 5080), or may censure the holder  
11 of that permit or certificate for unprofessional conduct that includes, but is not  
12 limited to, one or any combination of the following causes:

13 (b) A violation of Section 478, 498, or 499 dealing with false statements  
14 or omissions in the application for a license, in obtaining a certificate as a  
15 certified public accountant, in obtaining registration under this chapter, or in  
16 obtaining a permit to practice public accountancy under this chapter.

17 (g) Willful violation of this chapter or any rule or regulation promulgated  
18 by the board under the authority granted under this chapter.

19 5. Section 5109 of the Code states:

20 The expiration, cancellation, forfeiture, or suspension of a license,  
21 practice, privilege, or other authority to practice public accountancy by operation  
22 of law or by order or decision of the board or a court of law, or the voluntary  
23 surrender of a license by a licensee shall not deprive the board of jurisdiction to  
24 commence or proceed with any investigation of or action or disciplinary  
25 proceeding against the licensee, or to render a decision suspending or revoking  
26 the license.

### 27 STATUTES

28 6. Section 498 states:

A board may revoke, suspend, or otherwise restrict a license on the  
ground that the licensee secured the license by fraud, deceit, or knowing  
misrepresentation of a material fact or by knowingly omitting to state a material fact.

///

1           7.     Section 5060 states:

2                         .....  
3                         (b) No person or firm may practice public accountancy  
4                         under any name other than the name under which the person or  
5                         firm holds a valid permit to practice issued by the board.  
6                         .....

7           8.     Section 5107 of the Code provides, in pertinent part, that the Board may request  
8     the administrative law judge to direct a licentiate found to have committed a violation or  
9     violations of the licensing act to pay to the Board the reasonable costs of the investigation and  
10    prosecution of the case, including but not limited to attorneys' fees.

#### 11   REGULATIONS

12           9.     Title 16 of the California Code of Regulations (CCR) section 87 states:

13                         (a) 80 Hours.

14                         As a condition of active status license renewal, a licensee shall complete  
15                         at least 80 hours of qualifying continuing education as described in Section 88 in  
16                         the two-year period immediately preceding license expiration, and meet the  
17                         reporting requirements specified in subsection (a) of Section 89. A licensee  
18                         engaged in the practice of public accountancy as defined in Section 5051 of the  
19                         Business and Professions Code is required to hold a license in active status. No  
20                         carryover of continuing education is permitted from one two-year license renewal  
21                         period to another.

22                         (b) Government Auditing Continuing Education Requirement.

23                         A licensee who engages in planning, directing, conducting substantial  
24                         portions of field work, or reporting on financial or compliance audits of a  
25                         governmental agency shall complete 24 of the 80 hours required pursuant to  
26                         subsection (a) in the areas of governmental accounting, auditing or related  
27                         subjects. This continuing education shall be completed in the same two-year  
28                         license renewal period as the report is issued. A governmental agency is defined  
as any department, office, commission, authority, board, government-owned  
corporation, or other independent establishment of any branch of federal, state or  
local government. Related subjects are those which maintain or enhance the  
licensee's knowledge of governmental operations, laws, regulations or reports;  
any special requirements of governmental agencies; subjects related to the  
specific or unique environment in which the audited entity operates; and other  
auditing subjects which may be appropriate to government auditing engagements.  
A licensee who meets the requirements of this subsection shall be deemed to have  
met the requirements of subsection (c).

29     ///

1 (g) Failure to Comply.

2 A licensee's willful failure to comply with the requirements of this section  
3 shall constitute cause for disciplinary action pursuant to Section 5100(g) of the  
4 Accountancy Act.

5 10. CCR section 89 states:

6 (a) Upon renewal, a licensee who is required, pursuant to Section 87, to  
7 obtain continuing education must provide a written statement, signed under  
8 penalty of perjury, certifying that the requisite number of continuing education  
9 hours has been obtained. The licensee shall disclose the following information  
10 concerning courses or programs claimed as qualifying continuing education:

11 (1) Course title or description

12 (2) Date of completion

13 (3) Name of school, firm or organization providing the course or  
14 program

15 (4) Method of study, i.e., whether course or program is self-study,  
16 live presentation or Group Internet-Based Program (Webcast)

17 (5) Number of hours earned.

18 . . . .

19 (k) A licensee's willful making of any false or misleading statement, in  
20 writing, regarding his or her continuing education shall constitute cause for  
21 disciplinary action pursuant to section 5100(g) of the Accountancy Act.

22 **FACTUAL ALLEGATIONS SUPPORTING THE IMPOSITION OF DISCIPLINE**

23 11. On October 24, 2007, the Board received a facsimile from Daniel Lopez, an  
24 employee of the Internal Revenue Service (IRS), providing the paid preparer signature block from  
25 a completed income tax return, Form 1040, signed by Rick McPeak of the firm of McKinney &  
26 McPeak, CPAs. Subsequent review of the Board's records established that McKinney &  
27 McPeak, CPAs is not registered with the Board.

28 12. On November 8, 2007, the Board's Enforcement Division mailed a letter to  
Respondent informing him that the firm name of "McKinney & McPeak, CPAs" is not registered  
with the Board. Respondent was asked to provide the following information and/or  
documentation:

a. The reason(s) why the firm name of McKinney & McPeak, CPAs  
has not been registered with the CBA, and the steps that he will take to rectify this.

1           b.       The date he began practicing public accountancy as McKinney &  
2           McPeak, CPAs.

3           c.       Copies of two income tax returns with client transmittal letter  
4           issued by Respondent's firm between January 1, 2007, and October 15, 2007.

5           d.       Copies of two of the highest level (i.e. audit, review, or  
6           compilation) financial statements issued by Respondent's firm between January 1,  
7           2007, and November 8, 2007.

8           e.       A listing of Respondent's continuing professional education courses  
9           (CPE) completed for his August 31, 2007, license renewal with copies of the  
10          course completion forms.

11       13.       On November 21, 2007, the Board received a letter dated November 20, 2007,  
12       from Respondent. Respondent stated that he was "astonished" that his firm was not registered  
13       with the CBA, since he thought that it had been registered since its inception in 1984.  
14       Respondent provided a copy of his August 31, 2007, license renewal, which he signed under  
15       penalty of perjury, with all the course completion forms that he could locate, which totaled 28  
16       hours. Respondent provided the following information and/or documentation:

17           a.       A copy of his August 31, 2007, renewal form.

18           b.       Course completion forms for Ethics – 8 hours; Audit Risk – 12  
19           hours; 8 Free Financial – 8 hours.

20           c.       Copies of two income tax returns dated November 20, 2007, issued  
21           by and apparently printed by the firm on that date.

22           d.       Copies of two audit reports for the year ended December 31, 2006,  
23           issued by the firm.

24       14.       On November 21, 2007, the Board mailed a letter to Respondent reminding him  
25       that he still needed to provide course completion forms for the remaining 52 hours of CPE, and  
26       that, if necessary, he should contact the course providers to obtain copies of the course  
27       completion forms. The Board also requested that Respondent provide it with the steps that he  
28       will take to ensure that he does not use or hold out to the public as McKinney & McPeak, CPAs,  
29       (e.g. take down signs, change business cards, remove from tax program, etc.), and to provide it  
30       with a photograph of his building directory and office door signage.

31       15.       On December 17, 2007, the Board received a letter dated December 14, 2007, from  
32       Respondent in which he provided course completion forms for a substitute tax course taken on

1 December 10, 2007, a Governmental Accounting & Auditing Conference, taken on May 9, 2007,  
2 and an Internal Control and Fraud Detection class, taken on August 28, 2007. In addition,  
3 Respondent provided an unacceptable form for two School District Conference courses.  
4 Respondent also provided his business card and photographs of his building directory and office  
5 window that indicate he is not practicing under the namestyle of McKinney & McPeak, CPAs.

6 16. On December 24, 2007, the Board reviewed the audited financial statements for  
7 Family Resource Ministries, Inc. for the year ended December 31, 2006; and the Interfaith Food  
8 Center for the year ended December 31, 2006, and noted minor reporting deficiencies. Because  
9 the Interfaith Food Center received \$42,295 in federal grants, it is not required to have a single  
10 audit.

11 17. On December 24, 2007, the Board mailed a letter to Respondent requesting that he  
12 provide it with copies of all of his work papers that comprise the above two audits, and the latest  
13 peer or quality review report with letter of comments. The Board also asked that Respondent  
14 contact the California CPA Education Foundation to obtain a copy of the course completion  
15 forms for the school district conference courses, and suggested that he contact Lacerte and obtain  
16 a copy of the 2005 and 2006 course completion forms since the substitute was dated after his  
17 August 31, 2007 renewal.

18 18. On January 23, 2008, the Board received a letter dated January 17, 2008, from  
19 Respondent. Accompanying the letter were the work papers for the audits of the Family Resource  
20 Ministries, Inc. and the Interfaith Food Center that had been requested, and substitute course  
21 completion forms for 12 hours of Single Audits of Governmental Entities, taken on January 7,  
22 2008, and 6 hours of Overview of Governmental Accounting, taken on January 8, 2008.  
23 Respondent also advised that his firm had not had a peer review but he planned on having one in  
24 the summer. The Board's review of the work papers for each audit found no major deficiencies.

25 19. On July 31, 2008, the Board was advised by the California Education Foundation  
26 that Respondent did not attend the two School District Conferences he had claimed to, but that he  
27 did complete the Governmental Accounting and Auditing Conference. On August 21, 2008, the  
28 Board was advised by Lacerte Software that Respondent did not attend either the 2005 or the

1 2006 income tax courses. On August 26, 2008, the Board was advised by Professional Publishing  
2 Group that Respondent did not complete the California Fraud Update course.

3 20. On August 26, 2008, the Board mailed a letter to Respondent informing him that it  
4 had attempted to verify the courses that he listed on his August 31, 2007, renewal with the course  
5 providers, and provided him with a list of the courses that it was unable to verify. Respondent  
6 was asked to provide the course completion forms or obtain them from the course providers if he  
7 did in fact attend those courses.

8 21. On September 26, 2008, the Board received a letter dated September 19, 2008,  
9 from Respondent in which he stated in his January 17, 2008, letter that he was unable to secure  
10 verification forms on the tax and school district conference courses, and that he submitted courses  
11 to replace them.

#### 12 **FIRST CAUSE FOR DISCIPLINE**

##### 13 **(Wrongful Acquisition of License)**

14 22. Respondent is subject to discipline under section 498 for wrongfully acquiring the  
15 September 1, 2007 renewal of his license, by committing fraud or deceit, or making a knowing  
16 misrepresentation of a material fact, when submitting his August 31, 2007 license renewal by  
17 claiming thereon that he had completed the 80-hour CPE license renewal requirement, when, in  
18 fact, Respondent had completed only 44 hours of CPE prior to August 31, 2007. Respondent also  
19 listed five CPE courses for which he had signed up, but failed to attend, and was unable to  
20 document his completion of 48 hours of CPE listed on his renewal form as having been  
21 completed by August 31, 2007. Respondent thus submitted a license renewal signed under  
22 penalty of perjury that he knew contained false and inaccurate CPE information, as detailed in  
23 paragraphs 11 through 21, above.

#### 24 **SECOND CAUSE FOR DISCIPLINE**

##### 25 **(False Statements in Renewal Application)**

26 23. Respondent is subject to discipline under section 5100(b) for making the false  
27 statements in his August 31, 2007 renewal detailed in paragraph 22, above.

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